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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
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EXAMINER

PRENTY, M

ART UNIT PAPER NUMBER

2503

DATE MAILED: 02/18/97

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on 1/30/97

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three (3) month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1-11 is/are pending in the application.
Of the above, claim(s) 1-4 and 6-9 is/are withdrawn from consideration.
☐ Claim(s) is/are allowed.
☒ Claim(s) 5, 10 and 11 is/are rejected.
☐ Claim(s) is/are objected to.
☐ Claim(s) are subject to restriction or election requirement.

Application Papers

- ☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
☐ The drawing(s) filed on is/are objected to by the Examiner.
☐ The proposed drawing correction, filed on is ☐ approved ☐ disapproved.
☐ The specification is objected to by the Examiner.
☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☒ received.
☐ received in Application No. (Series Code/Serial Number)
☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received:

☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☐ Notice of Reference Cited, PTO-892
☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2, 5
☐ Interview Summary, PTO-413
☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
☐ Notice of Informal Patent Application, PTO-152

--SEE OFFICE ACTION ON THE FOLLOWING PAGES--

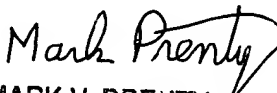
Applicant's election with traverse of Group I, claims 5, 10 and 11, in Paper 7 filed January 30, 1997 is acknowledged. The traversal is on the grounds that the claims as amended are indistinct, the Group I and Group II inventions are not separate and distinct, examination of both inventions simultaneously would not be a serious burden and that any such slight added burden is outweighed by the applicant's burden of prosecuting an additional application. The traversal is not persuasive. First of all, the claims as amended remain distinct because the device claims' "simultaneously" process limitation is not determinative of patentability. In re Thorpe, 227 USPQ 964 (Fed. Cir. 1985). Furthermore, the law has long been established that distinct yet dependent inventions may be properly divided. M.P.E.P. §802.01. Furthermore, the examiner respectfully submits that searching/examining the Group II method invention in addition to the elected Group I device invention would, in fact, be more than a slight added burden. The requirement is still deemed to be proper and is thus made FINAL. Claims 1-4 and 6-9 are withdrawn from further consideration by the examiner as being drawn to a non-elected invention (37 CFR 1.142(b)).

Claims 5, 10 and 11 are rejected under 35 U.S.C. §102(b) as anticipated by or, in the alternative, under 35 U.S.C. §103 as obvious over Steitz (United States Patent 3,719,981 submitted in the Information Disclosure Statement filed January 8, 1997). See Steitz's Figures 5, 6 and 10 in particular.

The field of search for this application includes 257 / 620, 737, 738.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Prenty whose telephone number is (703) 308-4939.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group 2500 receptionist whose telephone number is 308-0956.


MARK V. PRENTY
PRIMARY EXAMINER
GROUP 250